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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,529	12/08/2003	Fred M. Feinsod	8629/1(a)	2983

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,529

Applicant(s)

FEINSOD, FRED M.

Examiner

FREDRICK C CONLEY

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 and 14 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 15, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 5, 9, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,703,415 to Bechik.

Claim 1, Bechick discloses a mattress assembly comprising:
a mattress having top and bottom surfaces, and opposing lateral sides; and
a plurality of hand supports within the mattress with hand grips 11 in the sides of the mattress (fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 2,703,415 to Bechik in view of U.S. Pat. No. 4,286,344 to Ikeda.

Claim 2, Bechik discloses all of the Applicant's claimed limitations except for having a raised bolster on the top surface of the mattress. Ikeda discloses a mattress having a raised bolster 34 on the top surface. It would have been obvious for one

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having ordinary skill in the art at the time of the invention to employ a raised bolster on the top surface as taught by Ikeda in order to prevent a user from falling from the mattress.

Claim 3, wherein the bolsters are laterally adjacent to a patient's head on the mattress.

Claim 4, wherein the bolsters are laterally adjacent to a patient's legs on the mattress.

Claims 2-4, 6, 8, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 2,703,415 to Bechik in view of U.S. Pat. No. 6,739,001 to Flick et al.

Claim 2, Bechik discloses all of the Applicant's claimed limitations except for having a raised bolster on the top surface of the mattress. Flick discloses a mattress having a raised bolster (18a, 18b) on the top surface. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a raised bolster on the top surface as taught by Ikeda in order to prevent a user from falling from the mattress.

Claim 3, wherein the bolsters are laterally adjacent to a patient's head on the mattress.

Claim 4, wherein the bolsters are laterally adjacent to a patient's legs on the mattress.

Claim 6, wherein a first pair of bolsters 18a laterally adjacent to a patient's head on the mattress, and

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a second pair of bolsters 18b laterally adjacent to a patient's legs on the mattress, with gaps between the first and second pairs of bolsters along the midsections of the mattress to facilitate ingress and egress by a patient (fig. 5).

Claims 8 and 18, further comprising: a bed frame supporting the mattress; and a strap extending between the hand supports across the bottom of the mattress beneath the bed frame (col. 6 lines 45-48)(Flick).

Claim 15, Bechik discloses a mattress assembly comprising:
a mattress having top and bottom surfaces, and opposing lateral sides; and
a plurality of hand supports within the mattress with hand grips 11 in the sides of the mattress (fig. 2). Bechik fails to disclose a raised bolster on the top surface of the mattress. Flick discloses a mattress having a raised bolster (18a, 18b) on the top surface wherein a first pair of bolsters 18a laterally adjacent to a patient's head on the mattress, and a second pair of bolsters 18b laterally adjacent to a patient's legs on the mattress, with gaps between the first and second pairs of bolsters along the midsections of the mattress to facilitate ingress and egress by a patient (fig. 5). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a raised bolster on the top surface as taught by Ikeda in order to prevent a user from falling from the mattress.

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Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 2,703,415 to Bechik, U.S. Pat. No. 6,739,001 to Flick et al., and in view of U.S. Pub. No. 2001/0003789 to Dutto et al.

Claims 7 and 19, Bechik discloses all of the Applicant's claimed limitations except for the hand grips being recessed into the sides of the mattress. Dutto discloses recessed hand grips 33 (col. 4; [0049]). It would have been obvious to have the recessed as taught by Dutton within the sides of the mattress of Bechik in order provide a hand grip that is easily and comfortably grasped.

Claim 10, Bechik discloses a mattress assembly comprising:

a mattress having top and bottom surfaces, and opposing lateral sides; and
a plurality of hand supports within the mattress with hand grips 11 in the sides of the mattress (fig. 2). Bechik fails to disclose a raised bolster on the top surface of the mattress. Flick discloses a mattress having a raised bolster (18a, 18b) on the top surface wherein a first pair of bolsters 18a laterally adjacent to a patient's head on the mattress, and a second pair of bolsters 18b laterally adjacent to a patient's legs on the mattress, with gaps between the first and second pairs of bolsters along the midsections of the mattress to facilitate ingress and egress by a patient (fig. 5). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a raised bolster on the top surface as taught by Ikeda in order to prevent a user from falling from the mattress.

Allowable Subject Matter

Claims 10-12 and 14 are allowed.

Claims 5, 9, 16-17, ~~and 18~~ ^{AK} are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC




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